



General Assembly

February Session, 2006

Raised Bill No. 5810

LCO No. 3198

* ____HB05810APP__041906__ *

Referred to Committee on Judiciary

Introduced by:
(JUD)

***AN ACT LIMITING THE USE OF EMINENT DOMAIN BY
MUNICIPALITIES AND MUNICIPAL DEVELOPMENT AGENCIES AND
ESTABLISHING AN OFFICE OF PROPERTY RIGHTS OMBUDSMAN.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 8-193 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) After approval of the development plan as provided in this
4 chapter, the development agency may proceed by purchase, lease,
5 exchange or gift with the acquisition or rental of real property within
6 the project area and real property and interests therein for rights-of-
7 way and other easements to and from the project area. [The
8 development agency may, with the approval of the legislative body,
9 and in the name of the municipality, acquire by eminent domain real
10 property located within the project area and real property and interests
11 therein for rights-of-way and other easements to and from the project
12 area, in the same manner that a redevelopment agency may acquire
13 real property under sections 8-128 to 8-133, inclusive, as if said sections
14 specifically applied to development agencies.] The development
15 agency may, with the approval of the legislative body and, of the

16 commissioner if any grants were made by the state under section 8-190
 17 or 8-195 for such development project, and in the name of such
 18 municipality, transfer by sale or lease at fair market value or fair rental
 19 value, as the case may be, the whole or any part of the real property in
 20 the project area to any person, in accordance with the project plan and
 21 such disposition plans as may have been determined by the
 22 commissioner.

23 (b) A development agency shall have all the powers necessary or
 24 convenient to undertake and carry out development plans and
 25 development projects, including the power to clear, demolish, repair,
 26 rehabilitate, operate, or insure real property while it is in its
 27 possession, to make site improvements essential to the preparation of
 28 land for its use in accordance with the development plan, to install,
 29 construct or reconstruct streets, utilities and other improvements
 30 necessary for carrying out the objectives of the development project,
 31 and, in distressed municipalities, as defined in section 32-9p, to lend
 32 funds to businesses and industries in a manner approved by the
 33 commissioner.

34 Sec. 2. Subsection (g) of section 32-224 of the general statutes is
 35 repealed and the following is substituted in lieu thereof (*Effective from*
 36 *passage*):

37 (g) After approval of the development plan pursuant to sections 32-
 38 220 to 32-234, inclusive, the implementing agency may by purchase,
 39 lease, exchange or gift acquire or rent real property necessary or
 40 appropriate for the project as identified in the development plan and
 41 real property and interests therein for rights-of-way and other
 42 easements to and from the project area. [The implementing agency
 43 may, with the approval of the legislative body of the municipality, and
 44 in the name of the municipality, condemn in accordance with section
 45 8-128 to 8-133, inclusive, any real property necessary or appropriate for
 46 the project as identified in the development plan, including real
 47 property and interests in land for rights-of-way and other easements to
 48 and from the project area.]

49 Sec. 3. Subdivision (3) of subsection (c) of section 7-148 of the
50 general statutes is repealed and the following is substituted in lieu
51 thereof (*Effective from passage*):

52 (3) (A) Take or acquire by gift, purchase, grant, including any grant
53 from the United States or the state, bequest or devise and hold,
54 condemn, lease, sell, manage, transfer, release and convey such real
55 and personal property or interest therein absolutely or in trust as the
56 purposes of the municipality or any public use or purpose, including
57 that of education, art, ornament, health, charity or amusement,
58 cemeteries, parks or gardens, or the erection or maintenance of statues,
59 monuments, buildings or other structures, [or the encouragement of
60 private commercial development,] require, except that no property
61 may be condemned for purposes of a development project as defined
62 in section 8-187. Any lease of real or personal property or any interest
63 therein, either as lessee or lessor, may be for such term or any
64 extensions thereof and upon such other terms and conditions as have
65 been approved by the municipality, including without limitation the
66 power to bind itself to appropriate funds as necessary to meet rent and
67 other obligations as provided in any such lease;

68 (B) Provide for the proper administration of gifts, grants, bequests
69 and devises and meet such terms or conditions as are prescribed by the
70 grantor or donor and accepted by the municipality.

71 Sec. 4. Section 7-600 of the general statutes is repealed and the
72 following is substituted in lieu thereof (*Effective from passage*):

73 (a) Any municipality may by resolution of its legislative body
74 establish neighborhood revitalization zones, in one or more
75 neighborhoods, for the development by neighborhood groups of a
76 collaborative process for federal, state and local governments to
77 revitalize neighborhoods where there is a significant number of
78 deteriorated property and property that has been foreclosed, is
79 abandoned, blighted or is substandard or poses a hazard to public
80 safety. The resolution shall (1) provide that the chief executive official

81 facilitate the planning process for neighborhood revitalization zones
82 by assigning municipal staff to make available information to
83 neighborhood groups and to modify municipal procedures to assist
84 neighborhood revitalization zones, and (2) establish a process for
85 determination of the boundaries of neighborhood revitalization zones.

86 (b) Public buildings in the municipality shall be available for
87 neighborhood groups to meet for neighborhood revitalization
88 purposes as determined by the chief executive official.

89 (c) As used in this section "deteriorated property" means property in
90 serious noncompliance with state and local health and safety codes
91 and regulations. Such deteriorated property includes, but is not limited
92 to:

93 (1) Any dwelling that, because it is dilapidated, unsanitary, unsafe,
94 vermin-infested or lacking in the facilities and equipment required by
95 the housing code of the municipality, is unfit for human habitation;

96 (2) Any structure that is a fire hazard, or is otherwise dangerous to
97 the safety of persons or property;

98 (3) Any structure from which the utilities, plumbing, heating,
99 sewerage or other facilities have been disconnected, destroyed,
100 removed or rendered ineffective so that the property is unfit for its
101 intended use; and

102 (4) Any vacant or unimproved lot or parcel of land in a
103 predominantly developed neighborhood that, by reason of neglect or
104 lack of maintenance, has become a place for accumulation of trash and
105 debris, or a haven for rodents or other vermin.

106 Sec. 5. (NEW) (*Effective July 1, 2006*) (a) There is established an Office
107 of Property Rights Ombudsman which shall be within the Office of
108 Policy and Management for administrative purposes only. The Office
109 of Property Rights Ombudsman shall be under the direction of a
110 Property Rights Ombudsman who shall be appointed in accordance

111 with section 6 of this act.

112 (b) The Office of Property Rights Ombudsman shall:

113 (1) Develop and maintain expertise in, and understanding of, the
114 (A) provisions of the federal and state constitutions governing the
115 taking of private property and provisions of state law authorizing a
116 public agency to take private property, and (B) case law interpreting
117 such provisions;

118 (2) Assist public agencies in applying constitutional and statutory
119 provisions concerning eminent domain;

120 (3) At the request of a public agency, provide assistance in
121 analyzing actions that have potential eminent domain implications;

122 (4) Advise private property owners who have a legitimate potential
123 or actual claim against a public agency with the power of eminent
124 domain;

125 (5) Identify state or local governmental actions that have potential
126 eminent domain implications and, if appropriate, advise the
127 appropriate public agency about such implications;

128 (6) Provide information to private citizens, civic groups and other
129 interested parties about eminent domain law and their rights with
130 respect to eminent domain;

131 (7) If requested to do so by a private property owner: (A) Arbitrate
132 or arrange for the arbitration of disputes concerning the use of eminent
133 domain and related relocation assistance between private property
134 owners and public agencies, and (B) to the extent deemed feasible by
135 the Property Rights Ombudsman, mediate such disputes;

136 (8) Assist private property owners with respect to disputes
137 concerning the effect of municipal regulation of the use and occupancy
138 of real property, except that such assistance shall not include
139 mediation or arbitration unless requested under section 7 of this act;

140 and

141 (9) Recommend to the General Assembly changes that, in the
142 opinion of the Property Rights Ombudsman, should be made to the
143 general statutes related to eminent domain.

144 (c) For purposes of this section and sections 6 to 13, inclusive, of this
145 act, "public agency" means a public agency, as defined in section 1-200
146 of the general statutes, with the power to acquire property through
147 eminent domain and includes an entity authorized to acquire property
148 through eminent domain on behalf of the public agency.

149 Sec. 6. (NEW) (*Effective July 1, 2006*) The Property Rights
150 Ombudsman shall be appointed by the Governor in accordance with
151 sections 4-5 to 4-8, inclusive, of the general statutes, as amended by
152 this act. The Property Rights Ombudsman shall be an elector of the
153 state with expertise and experience in the field of real estate sales, real
154 estate appraisals or land use regulation. The Property Rights
155 Ombudsman shall not have been employed or served in an official
156 capacity with respect to any eminent domain procedure for a period of
157 one year prior to appointment.

158 Sec. 7. (NEW) (*Effective July 1, 2006*) (a) (1) The Property Rights
159 Ombudsman shall adopt regulations, in accordance with chapter 54 of
160 the general statutes, to establish an arbitration procedure for the
161 settlement of disputes between private property owners and public
162 agencies concerning (A) the use of eminent domain, and (B) relocation
163 assistance.

164 (2) The Property Rights Ombudsman may adopt regulations, in
165 accordance with chapter 54 of the general statutes, to establish a
166 mediation procedure for requests filed pursuant to this section.

167 (b) Any private property owner may file a request with the Property
168 Rights Ombudsman to have an eminent domain or relocation
169 assistance dispute between the private property owner and a public
170 agency heard before an arbitrator or arbitration panel. The private

171 property owner shall file the request, in writing, on forms prescribed
172 by the Property Rights Ombudsman or by calling a toll-free telephone
173 number that the Property Rights Ombudsman shall establish for such
174 purpose. Not later than fifteen days after filing the initial request for
175 arbitration, the private property owner shall file, on forms prescribed
176 by the Property Rights Ombudsman, any information the Property
177 Rights Ombudsman requires to determine whether to grant the
178 request, except that the Property Rights Ombudsman may grant an
179 extension of time for filing such information.

180 (c) (1) Not later than five days after receiving the request for
181 arbitration and information pursuant to subsection (b) of this section,
182 the Property Rights Ombudsman shall conduct an initial review of the
183 request and information and determine whether the dispute should be
184 accepted or rejected for arbitration based on criteria established by
185 regulations adopted under section 11 of this act. If the Property Rights
186 Ombudsman declines to arbitrate or appoint an arbitrator, the
187 Property Rights Ombudsman shall issue a written decision to the
188 property owner who filed the request specifying the reasons for the
189 decision.

190 (2) The Property Rights Ombudsman may appoint an individual
191 arbitrator or an arbitration panel to arbitrate a dispute, at the option of
192 the Property Rights Ombudsman or upon agreement of the parties,
193 when: (A) Any party objects to the Property Rights Ombudsman
194 serving as the arbitrator and agrees to pay for the services of the
195 arbitrator or panel; (B) the Property Rights Ombudsman declines to
196 arbitrate the dispute for a reason stated on the record and one or more
197 parties are willing to pay for the services of an arbitrator or panel; or
198 (C) the Property Rights Ombudsman finds it appropriate to appoint
199 another person or persons to arbitrate the dispute with no charge to
200 the parties for the services of the appointed arbitrator or panel. In
201 appointing an arbitrator or panel to arbitrate a dispute, the Property
202 Rights Ombudsman shall appoint arbitrators who are agreeable to the
203 parties and the Property Rights Ombudsman.

204 (3) Upon granting a request for arbitration, the Property Rights
205 Ombudsman shall notify each relevant public agency of the filing and
206 granting of the request for arbitration. The private property owner
207 who filed the request and each such public agency shall submit, in
208 writing, on a form prescribed by the Property Rights Ombudsman, any
209 information the Property Rights Ombudsman deems relevant to the
210 arbitration and resolution of the dispute.

211 (4) The Property Rights Ombudsman may, in his or her discretion,
212 mediate a dispute filed under this section if (A) the parties consent to
213 such mediation, and (B) regulations are adopted for such purpose
214 pursuant to subsection (a) of this section.

215 (5) The parties may agree in advance of arbitration that the
216 arbitration shall be binding and that no de novo trial by a court may
217 occur.

218 (6) The Property Rights Ombudsman shall investigate, gather and
219 organize all information necessary for a fair and timely resolution of
220 each dispute to be mediated or arbitrated under this section. The
221 Property Rights Ombudsman may issue subpoenas on behalf of the
222 Property Rights Ombudsman, arbitrator or arbitration panel to compel
223 the attendance of witnesses and the production of documents, papers
224 and records relevant to the dispute. The Property Rights Ombudsman
225 may forward a copy of all written testimony, including all
226 documentary evidence, to an independent technical expert or to any
227 person having a degree or other credentials from a nationally
228 recognized organization or institution attesting to relevant expertise,
229 for such person's review and to facilitate such person's assistance to the
230 Property Rights Ombudsman, arbitrator or arbitration panel. The
231 Property Rights Ombudsman, arbitrator or arbitration panel shall, not
232 later than sixty days after the date the request is filed under subsection
233 (b) of this section, render a decision based on the information and issue
234 written findings and reasons for the decision.

235 (d) Mediation or arbitration by or through the Office of Property

236 Rights Ombudsman shall not be required prior to bringing an action to
237 adjudicate any claim.

238 (e) The lack of mediation or arbitration by or through the Office of
239 Property Rights Ombudsman shall not constitute (1) a failure to obtain
240 a final decision under chapter 54 of the general statutes, or otherwise
241 exhaust available administrative remedies, or (2) a bar to any legal
242 action. Not more than thirty days after the issuance of a final decision
243 under this section, any party may submit the decision or any issue
244 upon which the decision is based to the Superior Court for de novo
245 review, unless otherwise agreed as provided in subdivision (5) of
246 subsection (c) of this section.

247 (f) Except as provided in section 13 of this act, the filing with the
248 Property Rights Ombudsman of a request for mediation or arbitration
249 of an eminent domain or relocation assistance matter shall not stay any
250 land use decision by a public agency.

251 (g) No employee of the Office of Property Rights Ombudsman may
252 be compelled to testify in a civil action with regard to the subject
253 matter of any dispute before the Office of Property Rights
254 Ombudsman.

255 (h) Evidence of a review by the Property Rights Ombudsman and
256 the opinions, writings, findings and decisions of the Property Rights
257 Ombudsman or any arbitrator or arbitration panel pursuant to this
258 section shall not be admissible as evidence in any action brought in
259 court with respect to the same dispute.

260 (i) The Property Rights Ombudsman may not represent a private
261 property owner or public agency in any dispute before a court or
262 public agency.

263 Sec. 8. (NEW) (*Effective July 1, 2006*) Each public agency shall comply
264 with reasonable requests of the Office of Property Rights Ombudsman
265 for information and assistance.

266 Sec. 9. (NEW) (*Effective July 1, 2006*) No employee in the Office of
267 Property Rights Ombudsman may:

268 (1) Be employed by, or hold a position on, any public agency other
269 than the Office of Property Rights Ombudsman;

270 (2) Receive or have the right to receive, directly or indirectly,
271 remuneration under a compensation arrangement with respect to an
272 eminent domain procedure; or

273 (3) Knowingly accept employment with a public agency for a period
274 of one year following termination of that person's services with the
275 Office of Property Rights Ombudsman.

276 Sec. 10. (NEW) (*Effective July 1, 2006*) (a) The Property Rights
277 Ombudsman may apply for and accept grants, gifts and bequests of
278 funds from other states, federal and interstate agencies and
279 independent authorities and private firms, individuals and
280 foundations, for the purpose of carrying out the responsibilities of the
281 Office of Property Rights Ombudsman.

282 (b) There is established, within the General Fund, a Property Rights
283 Ombudsman account that shall be a separate nonlapsing account. Any
284 funds received under this section shall, upon deposit in the General
285 Fund, be credited to said account and may be used by the Office of
286 Property Rights Ombudsman in the performance of its duties.

287 Sec. 11. (NEW) (*Effective July 1, 2006*) The Property Rights
288 Ombudsman shall adopt regulations, in accordance with chapter 54 of
289 the general statutes, to implement sections 5 to 10, inclusive, of this act.
290 Such regulations shall establish criteria to be used by the Property
291 Rights Ombudsman in determining whether to accept or reject a
292 request for arbitration filed pursuant to section 7 of this act.

293 Sec. 12. (NEW) (*Effective July 1, 2006*) Each public agency seeking to
294 acquire property by eminent domain shall: (1) Before initiating the
295 eminent domain action, make a reasonable effort to negotiate with the

296 property owner for the purchase of the property; and (2) as early in the
 297 negotiation process for the real property as practicable, but not later
 298 than fourteen days before the filing of an eminent domain action,
 299 unless the court for good cause allows a shorter period before filing:
 300 (A) Advise the property owner of available mediation and arbitration
 301 under section 7 of this act , including the name, address and telephone
 302 number of the Property Rights Ombudsman appointed pursuant to
 303 section 6 of this act, and (B) provide the property owner with a written
 304 statement explaining that oral representations or promises made
 305 during the negotiation process are not binding on the public agency
 306 seeking to acquire the property by eminent domain. The information
 307 provided under subparagraphs (A) and (B) of this subdivision shall be
 308 in such form as the Property Rights Ombudsman prescribes.

309 Sec. 13. (NEW) (*Effective July 1, 2006*) (a) In any dispute between a
 310 public agency seeking to acquire real property by eminent domain and
 311 a private property owner, the private property owner may submit the
 312 dispute for mediation or arbitration to the Property Rights
 313 Ombudsman under sections 5 to 11, inclusive, of this act.

314 (b) Except as provided in subsection (c) of this section, an action
 315 submitted to the Property Rights Ombudsman under this section shall
 316 not bar or stay any action for occupancy or possession of property
 317 which is the subject of the dispute.

318 (c) The Property Rights Ombudsman or an arbitrator, acting at the
 319 request of the private property owner under section 7 of this act, shall
 320 have standing in an action brought in any court concerning the real
 321 property that is the subject of the dispute and may file with such court
 322 a motion to stay the action during the pendency of the mediation or
 323 arbitration. The Property Rights Ombudsman or arbitrator may not file
 324 such a motion unless the ombudsman or arbitrator certifies at the time
 325 of filing the motion that a stay is reasonably necessary to reach a
 326 resolution of the case through mediation or arbitration. If a stay is
 327 granted and the order granting the stay does not specify when the stay
 328 terminates, the ombudsman or arbitrator shall file with the court a

329 motion to terminate the stay not more than thirty days after: (1) The
330 resolution of the dispute through mediation; (2) the issuance of a final
331 arbitration decision; or (3) a decision by the Property Rights
332 Ombudsman not to grant a request for mediation or arbitration.

333 (d) The private property owner or displaced person may request
334 that the ombudsman or arbitrator authorize an additional appraisal. If
335 the ombudsman or arbitrator determines that an additional appraisal
336 is reasonably necessary to reach a resolution of the case, the
337 ombudsman or arbitrator may: (1) Arrange for an additional appraisal
338 of the property prepared by an independent appraiser; and (2) require
339 the public agency proposing to acquire the property to pay the costs of
340 the first additional appraisal.

341 Sec. 14. Section 4-5 of the general statutes is repealed and the
342 following is substituted in lieu thereof (*Effective July 1, 2006*):

343 As used in sections 4-6, 4-7, as amended, and 4-8, the term
344 "department head" means Secretary of the Office of Policy and
345 Management, Commissioner of Administrative Services,
346 Commissioner of Revenue Services, Banking Commissioner,
347 Commissioner of Children and Families, Commissioner of Consumer
348 Protection, Commissioner of Correction, Commissioner of Economic
349 and Community Development, State Board of Education,
350 Commissioner of Emergency Management and Homeland Security,
351 Commissioner of Environmental Protection, Commissioner of
352 Agriculture, Commissioner of Public Health, Insurance Commissioner,
353 Labor Commissioner, Liquor Control Commission, Commissioner of
354 Mental Health and Addiction Services, Commissioner of Public Safety,
355 Commissioner of Social Services, Commissioner of Mental Retardation,
356 Commissioner of Motor Vehicles, Commissioner of Transportation,
357 Commissioner of Public Works, Commissioner of Veterans' Affairs,
358 Commissioner of Health Care Access, Chief Information Officer, the
359 chairperson of the Public Utilities Control Authority, the executive
360 director of the Board of Education and Services for the Blind, [and] the
361 executive director of the Connecticut Commission on Culture and

362 Tourism and the Property Rights Ombudsman.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	8-193
Sec. 2	<i>from passage</i>	32-224(g)
Sec. 3	<i>from passage</i>	7-148(c)(3)
Sec. 4	<i>from passage</i>	7-600
Sec. 5	<i>July 1, 2006</i>	New section
Sec. 6	<i>July 1, 2006</i>	New section
Sec. 7	<i>July 1, 2006</i>	New section
Sec. 8	<i>July 1, 2006</i>	New section
Sec. 9	<i>July 1, 2006</i>	New section
Sec. 10	<i>July 1, 2006</i>	New section
Sec. 11	<i>July 1, 2006</i>	New section
Sec. 12	<i>July 1, 2006</i>	New section
Sec. 13	<i>July 1, 2006</i>	New section
Sec. 14	<i>July 1, 2006</i>	4-5

JUD *Joint Favorable*

APP *Joint Favorable*